

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:)	
Thomas A. Follo)	Examiner: Landrum, Edward F.
)	
For: RAZOR CARTRIDGE)	Group Art Unit: 3724
)	
Serial No.: 10/816,657)	Confirmation number: 9671
)	
Filed on: April 2, 2004)	Our Docket No.: 6579-0439

Middletown, Connecticut, July 14, 2008

Board of Patent Appeals and Interferences
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

This is a reply to an Examiner's Answer mailed on May 14, 2008, in the above-identified appeal to the Board of Appeals.

REMARKS:

In the Examiner's Answer, the Examiner makes the following point:

In response to the Appellant's arguments on pages 6 and 7 directed towards Gilder, the term non-progressive holds little weight as Appellant's blades are actually arranged in a progressive manner. Appellant's blades however are not arranged in a continually progressive manner. Gilder has been used to teach progressive blade geometry¹, but instead has been used to teach a range which blade exposures in a razor should generally be between to perform optimally. Furthermore, Gilder does not teach away from one of ordinary skill in the art modifying Coffin '982. Gilder teaches another one of many obvious exposure arrangements for a group of razor blades on a razor. Gilder might even provide more of a reason that it would be obvious [to] modify Coffin '982 due to the fact that Gilder does indeed teach a different blade exposure arrangement.

See Examiner's Reply of May 14, 2008, page 8, paragraph 2 (emphasis and footnote added).

In response to the Examiner's arguments, the Appellant would like to make the following two points: 1) to use U.S. Patent No. 6,212,777 to Gilder (hereinafter "the Gilder patent") to teach that blades can be positioned to have any exposure within the given range of the Gilder patent ignores the very crux of the teachings of the Gilder patent; and 2) in light of the teachings of Gilder, the combination of EP 1 252 982 A1 to Coffin (hereinafter "the Coffin '982 patent") and the Gilder patent does not render the present invention obvious – in fact, the combination would lead one of skill in the art away from the present invention.

1. The Gilder Patent Teaches a Razor Cartridge having Blades with (Continually) Progressive Exposures

The Examiner has improperly used the Gilder patent to teach that blades can be positioned in any order, in any exposure within the given range. Using the Gilder patent in such a manner ignores the full disclosure of Gilder. Specifically, the Gilder patent teaches a 3-bladed cartridge having *progressively increasing* blade exposures. In other words, the first blade is positioned with a negative exposure (*i.e.*, between 0.0 and -0.2mm), the rear blade is positioned with a positive exposure (*i.e.*, between 0.0 and +0.2mm), and the middle blade has an exposure that has a value between the first and rear blades. The exposure of the middle blade, according to Gilder is preferably half way between the first and rear blades. The

¹ The Appellant believes the Examiner intended to write "Gilder has [not] been used to teach progressive geometry..." and has proceeded under this assumption.

arrangement of the blades of the Gilder device are not set in the above manner haphazardly simply because each of the blades has an exposure within the given ranges of -0.2mm and +0.2mm. Rather, the Gilder patent specifically states that the arrangement of (continuously) progressive geometry (*i.e.*, blades that are positioned from continuously less aggressive to more aggressive from first to last) is done because “[t]his arrangement has the effect of tending to equalise the work performed by the respective blades, since in a multiple blade razor the leading blade has a tendency to do most of the work.” Furthermore, the Gilder patent also states “the value of the second blade is ideally approximately half way between the exposure values for the primary and tertiary blades...”

Accordingly, when all of the teachings of Gilder are taken into account, the Appellant submits that the Gilder patent does *not* simply teach (A) placing blades within a given range of exposures; rather, the Gilder patent teaches (B) placing blades within a given range of exposures such that (1) the blades have exposure values that are continuously increasing so that (2) the blades tend to equalize the work performed by the respective blades. There is an enormous difference between (A) and (B) above. The Appellant submits that using the Gilder patent to simply disclose (A) ignores the crux of the teachings of the patent and, in order to appropriately use the Gilder patent, the Examiner must take into account each of the elements of (B). After all, “a prior art reference must be considered in its entirety, *i.e.*, as a whole, including portions that would lead away from the claimed invention.” See MPEP 2141.02 (citing *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

2. The Present Invention is Not Obvious in Light of the Gilder Patent and the Coffin ‘982 Patent

In light of the above arguments, the Appellant re-iterates the non-obvious arguments relevant to the Gilder patent and the Coffin ‘982 patent set forth in the Appeal Brief of April 23, 2008. The Appellant also re-iterates the teaching away arguments also set forth in the Appeal Brief of April 23, 2008.

Furthermore, by extrapolating the teachings (as discussed above) of the Gilder patent from a 3-bladed cartridge to a 4-bladed cartridge, the additional blade must also have an exposure having a value that falls within the teachings of the Gilder patent, *i.e.*, a value that maintains a continuously increasing exposure value for the entire series of blades so that the work done by each of the blades is approximately equal. In other words, the Gilder patent

would lead one of skill in the art to a 4-bladed cartridge having a first blade that has a negative exposure, a fourth blade that has a positive exposure, and two middle blades that each splits the difference between the first and fourth blades. It would not lead to a cartridge where the second and third blades have the same exposure. To say that one of skill in the art would arrive at the claimed invention requires impermissible hindsight that goes against the teachings of the cited reference.

The Examiner has also argued that one of skill in the art would try several different values for each of the blades that fall within the range of exposures set forth by the Gilder patent and would arrive, eventually through experimentation, at the claimed value. The Appellant's believe that this is not the case. In fact, the Appellant's believe that exactly the opposite is true. One of skill in the art, in combining the Coffin '982 patent and the guidance provided by the Gilder patent, would be led away from the present invention, as claimed. After all, in light of the Gilder patent, one of skill in the art would be attempting to make a cartridge that has blades with continuously increasing exposure values.

If any charges are incurred with respect to this Reply Brief, they may be charged to Deposit Account No. 504112 maintained by the Appellant's attorneys.

Respectfully submitted,

By /Timothy A. Johnson/
Timothy A. Johnson
Reg. No. 51,234
Attorney for Appellant

Michaud-Duffy Group LLP
306 Industrial Park Road, Suite 206
Middletown, CT 06457-1532
Tel: (860) 632-7200
Fax: (860) 632-8269